

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
TOWN OF EAGAR

THIS AGREEMENT is entered into 17 April, 2002, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF EAGAR acting by and through its MAYOR and TOWN COUNCIL (the "Town")

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-6993(g) to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Town.

3. The State has approved the exchange of \$467,514.00 in Highway User Revenue Funds (HURF) to the Town for the **construction** of improvements to Butler and Main Avenues, herein referred to as the "Project". Such funds will be repaid to the State by withholding from the Northern Arizona Council of Governments (NACOG) federal funds and the obligation authority for federal funds in the amount of \$570,623.00

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows

NO. 25224
Filed with the Secretary of State
Date Filed: 04/17/02

Betsy Gayles
Secretary of State

By Wm J. Searenewald

II. SCOPE OF WORK

1. The Town will:

- a. Provide design of the improvements for construction of the Project, contemplated by the Town and provide required documentation of said design to the State.
- b. Cause for the construction of the Project, and provide documentation to the State for each draw down on the approved HURF Exchange funds. Be responsible for any additional funds required to complete the Project, and comply with all applicable State laws, rules and regulations.
- c. At the start of construction, invoice the State no more than 30% of the approved HURF Exchange amount programmed for construction of the Project.
- d. Upon completion of the 30% and 60% construction stages, invoice the State no more than 30% of the approved HURF Exchange amount programmed for construction of the Project .
- e. Upon completion of construction, approve and accept the Project as complete, and invoice the State for the remaining 10% of the approved HURF Exchange amount.
- f. Upon completion of construction provide maintenance to the Project.

2. The State will:

- a. Within 30 days after receipt and approval of an invoice, (at the start of construction, and upon completion of each 30% and 60% stages), advance to the Town, no more than 30% of the approved HURF Exchange amount, for construction of the Project.
- b. Withhold from NACOG federal funds and the federal obligation authority, in the amount of \$570,623.00 for construction of the Project.
- c. Upon completion of the Project and notification from the Town, perform a final walk-through and upon approval of an invoice, remit the remaining 10% of the approved HURF Exchange amount.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no liability under this agreement. The Town assumes full responsibility for the acquisition of right of way, right-of-way plans, project design, plans and specifications, reports, construction and the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the Town and that the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, and court costs, expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of said project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual,

unless assumed by another governmental entity, may be canceled at any time prior to the advertisement of a construction contract, with thirty (30) days written notice to the other party.

3. This agreement shall become effective upon filing with the Secretary of State.
4. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.
5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.
6. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.
7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

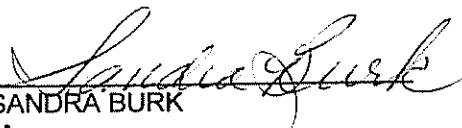
Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

Town of Eagar
Town Manager
P.O. Box 1300
Eagar, AZ 85925-1300

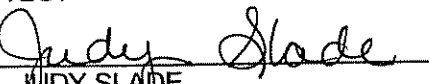
8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TOWN OF EAGAR, ARIZONA

By 
SANDRA BURK
Mayor
Division

ATTEST

By 
JUDY SLADE
Town Clerk

STATE OF ARIZONA

Department of Transportation

By 
MARY LYNN TISCHER, Asst. Director
Transportation Planning

RESOLUTION NO. 2002-11

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF EAGAR, ARIZONA, ENTERING AN INTERGOVERNMENTAL AGREEMENT BETWEEN ARIZONA DEPARTMENT OF TRANSPORTATION (ADOT) AND THE TOWN OF EAGAR, ARIZONA, FOR THE PURPOSE OF USING HIGHWAY USER REVENUE FUNDS (HURF) EXCHANGE FUNDS FOR SIDEWALKS AND STORM DRAINS WITH IN THE TOWN OF EAGAR AND ALLOWING THE MAYOR TO SIGN APPROPRIATE DOCUMENTS.

WHEREAS, ADOT funds are approved through Northern Arizona Council of Government (NACOG) on a rotating basis for Counties and Municipalities in Northern Arizona; and

WHEREAS, Apache County Transportation Planning Organization and NACOG have approved these proposed projects; and

WHEREAS, these funds will be used to correct storm drainage problems on Butler and 6th Ave. and replace problem sidewalks on Main Street.

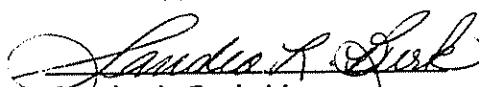
THEREFORE, BE IT RESOLVED by the Mayor and Town Council of the Town of Eagar, Arizona, that they have determined that it is in the best interest of the Town that the intergovernmental with Arizona Department of Transportation be entered into and allow the Mayor to sign said agreement thereto.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Eagar, Arizona this 13th day of March, 2002.

Attest:

Approved:


Judy Slade, Town Clerk


Sandra L. Burk, Mayor

Approved as to Form:

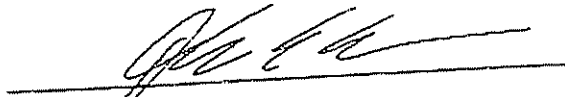

Douglas E. Brown, Town Attorney

JPA 02-19

APPROVAL OF THE EAGAR TOWN ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, among the STATE OF ARIZONA, Department Of Transportation and the TOWN OF EAGAR, and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 15th day of April, 2002.



Town Attorney



JANET NAPOLITANO
ATTORNEY GENERAL

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL
TRANSPORTATION SECTION
1275 WEST WASHINGTON STREET, PHOENIX, AZ 85007-2926

TRN Main: (602) 542-1680
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FACSIMILE : (602) 542-3646

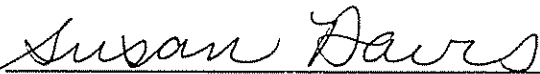
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR02-0487TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED April 8, 2002.

JANET NAPOLITANO
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:ggt

Enc.

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